IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE BILAL NAZKI

WRIT PETITION NO : 23950 of 1995

Between:

1.S.Mahalaxmi Naidu, S/o. late Kannayya, R/o. Kotha venkajipalem, Visakhapatnam,Visakhapatnam Dist.
2.S.Subbayyamma, W/o. late gangu Naidu,
R/o. Kotha venkajipalem, Visakhapatnam, Visakhapatnam Dist.
3.Bora Seethamma, W/o. late Narasimhulu,
R/o. Kotha venkajipalem, Visakhapatnam, Visakhapatnam Dist.
4.Uppada Pakeeru Reddy, s/o. Yellaiah,
R/o. Kotha venkajipalem, Visakhapatnam, Visakhapatnam Dist.
5.Mummana Pydamma, W/o. late Naidu,
R/o. Kotha venkajipalem, Visakhapatnam, Visakhapatnam Dist. **.... PETITIONERS**

AND

1.The Dist.Collector ,
Visakhapatnam Dist, Visakhaptnam.
2.The Project Director, A.D.B.Circle,NH.5,
Visakhapatnam Dist, Visakhaptnam.
3.The Mandal Revenue Officer,
Visakhapatnam Dist, Visakhaptnam. **.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction,more preferably in the nature of Writ of Mandamus declaring the action of the respondents in directing the petitioners to vacate their houses situated in S.No.1 of Venkojipalem, Visakhaptnam for demolition for widening NH.5 without paying compensation under the Land Acquisition Act as illegal arbitrary ,high headed and violative of Art14,21 and 300-A of the constitution of India and consequentially direct the respondent to invoke the provisions of Land acquisition Act for acquisition of the houses of the petitioners situated in S.No.1 of venkojipalem, Visakhapatnam and to pay compensation.

Counsel for the Petitioners: MR.A.V.SESHA SAI

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

ORDER:

Heard learned Counsel for the parties.

The grievance of the petitioners is that they are not being paid compensation in terms of the Land Acquisition Act for the purpose of acquiring land belonging to them to widen the National High Way. Since the petitioners had an apprehension of being evicted, they filed writ petition and this Court granted interim directions on 26-10-1995. The Mandal Revenue Officer gave a notice to the petitioners to vacate the land. It was contended by the Mandal Revenue Officer that since the land has been initially assigned to the petitioner for house sites, therefore, they are not entitled for compensation under the Land Acquisition Act. In fact in the counter-affidavit it has been stated that the petitioners had initially encroached the land, thereafter it was regularized by giving house site pattas to them. The pattas contained a stipulation that, if the Government needs the land, it would be resumed without payment of any compensation. However, the learned Counsel for the petitioner relies on a judgment of a larger Bench of this Court reported in ***'LAO-cum-RDO, Chevella Division, Hyderabad & others V. M.Pandu & others'*** in which it has been stated that even with such stipulation the land cannot be taken away by the State except after paying due compensation in terms of Land Acquisition Act.

In view of the judgment of the larger Bench of this Court cited supra, the writ petition is disposed of with a direction that if the respondents want to take away the land for public purpose, they shall do so after paying due compensation to the petitioners. No costs.

5th August, 2004

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To:

1.The Dist.Collector ,
Visakhapatnam Dist, Visakhaptnam.
2.The Project Director, A.D.B.Circle, NH.5,
Visakhapatnam Dist, Visakhaptnam.
3.The Mandal Revenue Officer,
Visakhapatnam Dist, Visakhaptnam.

3.Two CCs to the G.P for Revenue,

High Court Buildings, High Court of A.P.,

Hyderabad (O.U.T.)

4.Two CD copies.